

HOUSE BILL 1189

By Garrett

AN ACT to amend Tennessee Code Annotated, Title 66,
Chapter 1, relative to real property.

WHEREAS, the members of this General Assembly find that the common law estates of fee simple determinable, fee simple subject to condition subsequent, and fee simple subject to executory limitation are ancient concepts, and reverter and forfeiture provisions of unlimited duration in the conveyance of any interest in real property constitute an unreasonable restraint on alienation and are contrary to the policy of this State; and

WHEREAS, the members of this General Assembly find that it is in the best interests of the citizens of this State that the common law estates of fee simple determinable, fee simple subject to condition subsequent, and fee simple subject to executory limitation be abolished for the surety of title to real property; now therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 66, Chapter 1, Part 1, is amended by adding the following as a new section:

(a) Reverter or forfeiture provisions of unlimited duration contained in a deed, will, or other document establishing the common law estates of fee simple determinable, fee simple subject to condition subsequent, and fee simple subject to executory limitation executed more than twenty-five (25) years prior to July 1, 2021, are abolished and unenforceable.

(b)

(1) Reverter and forfeiture provisions contained in a conveyance of real property by deed, will, or other document establishing an interest under the

common law estates of fee simple determinable, fee simple subject to condition subsequent, and fee simple subject to executory limitation will terminate and become unenforceable twenty-five (25) years from the date of the conveyance containing the reverter or forfeiture provision.

(2) Notwithstanding subdivision (b)(1), past rights vested in deeds as of July 1, 2021, will be converted to a fee simple absolute at the end of twenty-five (25) years from the date created unless a sworn statement containing the name of the current owner of the property, the estate sought to be preserved, and a description of the property is filed in the register of deed's office of the county in which the property is located by July 1, 2022, to preserve the right. The sworn statement will extend the reverter provision one (1) time for a period of five (5) years from July 1, 2021, or from the expiration of the twenty-five (25) year period, whichever occurs first, at which time the interest will become a fee simple absolute in the owner of the property.

(c) A reverter or forfeiture provision contained in a deed, will, or other document conveying an interest in real property and purporting to establish the common law estates of fee simple determinable, fee simple subject to condition subsequent, and fee simple subject to executory limitation, executed on or after July 1, 2021, is invalid and unenforceable.

(d) Reversionary estates terminated or prohibited by this section will result in title in the grantee or recipient being fee simple absolute and no action may be maintained to recover an interest or to forfeit an interest upon the termination of the reversionary interest.

SECTION 2. This act takes effect July 1, 2021, the public welfare requiring it.